

**CRIMINAL DOCKET
UNITED STATES DISTRICT COURT**

68-CR-111

D. C. Form No. 100A Rev.

TITLE OF CASE	ATTORNEYS
<p>THE UNITED STATES</p> <p>vs.</p> <p>Gary Howard Kellerman</p>	<p><i>For U. S.:</i> Gerald E. Kamins Beacon Bldg., Tulsa James E. Ritchie</p> <p><i>For Defendant (Ct. Appt.)</i> Gerald E. Kamins & Tom Gudge Beacon Bldg., Tulsa 74103 Spillers, Tucker, Boyd, Parks & Kamins 217 W. 5th St., Tulsa 74103</p>

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed 9-20-68	Clerk	11-27-68	Kamins	5 00	
J.S. 3 mailed 11-30-68 suppl. 7-1-76	Marshal	11-29-68	C/D No.23		5 00
Violation Marihuana	Docket fee				
Title T. 26, USC 4742(a) T. 21, USC 331(q)(2)					
Sec. and (3)					

DATE	PROCEEDINGS
9-10-68	Indictment filed in open court. h
9-10-68	Record vote of Grand Jury filed in open court. h
9-10-68	Bond of the defendant in the amount of \$5,000 filed. Surety- Herbert A. Kellerman and Nathaniel Kellerman. h
9-10-68	Bond of the defendant in the amount of \$10,000 filed. Surety-United Bonding Insurance Co. by Van Raulston. h
9-10-68	Order specifying methods and conditions of release filed. h
9-19-68	Defendant Gary Howard Kellerman present and represented. Deft. advised as to charges and states he has heretofore received copy of indictment. Deft. arraigned, waives reading of indictment & enters pleas of NOT GUILTY as to each of Cts. 1 thru 9. Ordered that deft. is granted 10 days to file motions, that case is to be set for jury trial & that deft. is to remain on present bond. (LB-J)(Larry Marks-CSR)w
9-20-68	It is ordered by the Court that this case be set for Jury trial on October 14, 1968, at 9:30 A.M. (FD-J) ds
10-2-68	Order filed that defendant granted extension of time, or until October 4, 1968 in which to file motions. (Luther Bohanon-J)h
10-4-68	Motion Under Rule 16, by Defendant, filed. js ✓
10-4-68	Brief In Support of Motion Under Rule 16, filed. js
10-4-68	Plaintiff's Response To Deft. Motion For Discovery Under Rule 16 a,b, filed. js

DATE	PROCEEDINGS
10-9-68	Application for Leave of Court to file Motion for Severance Under Rule 45 (c) of the Federal Rule For Criminal Procedure, filed. js
10-9-68	Petition For Permission To Interview Witnesses, filed. js ✓
10-9-68	Brief in Support of Petition for Interview, filed. js
10-9-68	Affidavit, of Gerald E. Kamins, filed. js
10-9-68	Defendant's Response to Plaintiff's Request For Reciprocal Discovery Under Rule 16 (c), filed. js
10-10-68	Brief in support of defendant's motion for severance, filed. g
10-10-68	Objection to the filing of defendant's motion for severance, filed. w
10-10-68	Response to defendant's petition for permission to interview witnesses, filed. w
10-10-68	Response to motion for severance, filed. w
10-14-68	Hearing held on motions. Defendant present in person and represented. Defendant's motion under Rule 16 agreed. Defendant's motion for severance overruled. Defendant's petition for permission to interview witnesses moot and withdrawn by defendant. Defendant's motion for permission to conduct chemical test on drugs granted and to be completed by 10-17-68. Defendant files motion for Medical Examination in open court; and it is granted. Proper order for Medical Exam to be prepared by U.S. Atty. with insert for appointed doctor. Bond of the defendant not revoked and defendant to report to Probation Office daily. Case stricken from jury docket of this date, pending competency report and chemical report, to be reset for jury trial. (October 28, 1968) (FD-J) (LM-CSR)h
10-16-68	Order filed that defendant be examined by Dr. Joe E. Tyler, and that Dr. Tyler if possible file a report of findings within 10 days from this date. (FD-J)h
10-16-68	Copies of above delivered to Defendant, Doctor, Def's Atty, U.S. Atty, h
10-16-68	Ordered by the Court that deft. is granted an additional 5 days to examine the materials herein. (FD-J)w
10-17-68	Order of 10-14-68, that defendant's motion for discovery under Rule 16 is moot in that the government has supplied information requested that is available; defendant's motion for interview of witnesses is withdrawn in that government has furnished names of their witnesses; defendant's motion for severance is overruled; government's request for reciprocal discovery under Rule 16(c) should be granted and has been satisfied; defendant's motion to allow contraband to be examined is granted. (Fred Daugherty-Judge) copies mailed counsel and Judge Bohanon.) b
10-28-68	Defendant's motion to dismiss, filed in open court. b
10-28-68	Defendant's brief in support of motion to dismiss, filed in open court. b
10-28-68	Defendant's motion for continuance and alternative motion for severance, filed, in open court. b
10-28-68	Defendant's brief in support of motion for continuance and alternative motion for severance, filed, in open court. b
10-28-68	Case tried to a jury on October 28 and 29, 1968, verdict returned finding the defendant GUILTY as to each of Counts 2, 3, 4, 5, 6, 7, 8, and 9; defendant adjudged GUILTY as to each of Counts 2, 3, 4, 5, 6, 7, 8 and 9. Defendant granted 10 days to file motion for new trial. Jury discharged. Govern't moves to increase bond and motion denied. Defendant released on present bonds and sentencing is passed pending probation officers report. (Luther Bohanon - Judge) (FS-CSR)
10-28-68	Trial exhibits filed. (all in vault including \$100.00 & \$10.00 bills) b
10-28-68	Verdict filed in open Court. b
10-29-68	Government's requested instructions, filed in open Court. b
11-6-68	Case set for sentencing on Thursday 11-21-68 at 9:30 a.m. (LB-J)m
11-13-68	Application for enlargement of time to file motion for new trial and motion for new trial and motion for judgment of acquittal, filed. ds
11-13-68	Order extending time to file motion for new trial and motion for judgment of acquittal, filed. ds

-Continued-

D. C. 109A
CRIMINAL DOCKET

DATE	PROCEEDINGS
11-14-68	Brief in support of motion for new trial and motion for judgment of acquittal, filed. m
11-13-68	Motion for New Trial and motion judgment for acquittal, filed. ds
11-20-68	Order, on motion to dismiss orverruled, (LB-J), filed. js
11-21-68	Defendant present in person and represented. Ordered that deft's motion for new trial and motion judgment for acquittal are each overruled.
	Judgment and Sentence - Gary Howard Kellerman (Age 28)
	Ct. 2 - Atty. Gen. - Ten (10) Years
	Ct. 3 - Atty. Gen. - Ten (10) Years, to run consecutively to sentence imposed in Ct. 2
	Ct. 4 - Atty. Gen. - Ten (10) Years, to run concurrently with sentence imposed in Cts. 2 & 3
	Ct. 6 - Atty. Gen. - Ten (10) Years, to run concurrently with sentence imposed in Cts. 2 & 3
	Ct. 5 - Atty. Gen. - One (1) Year, to run concurrently with sentence imposed in Cts. 2 & 3
	Ct. 8 - Atty. Gen. - One (1) Year, to run concurrently with sentence imposed in Cts. 2 & 3
	Ct. 9 - Atty. Gen. - One (1) Year, to run concurrently with sentence imposed in Cts. 2 & 3
	Ct. 7 - Atty. Gen. - Two (2) Years, to run concurrently with sentence imposed in Cts. 2 & 3
	Deft. states formal notice of appeal in open court and requests to remain on present bond. Request is denied by the Court and bond is fixed at \$50,000.00 surety. Court will ask for report on deft. after 120 days. (LB-J)(FS-CSR)m
11-21-68	Judgment and Commitment, filed and entered. (LB-J)m
11-21-68	Two c/c of J&O delivered to U. S. Marshal. m
11-22-68	Appearance bond of Gary Howard Kellerman on appeal in the amt. of \$25,000; Surety, United Bonding Ins. Co., Indianapolis, Ind., filed. m
11-22-68	Appearance Bond on Appeal of Gary Howard Kellerman in the amt. of \$25,000; cash; Surety Nathaniel I. Kellerman, filed. m
11-27-68	Defendant's Notice of Appeal filed. ds copies mailed to Jim Ritchie, Gerald E. Kamins and Tom Gudgel and U.S. District Court of Appeals, 10TH Circuit.
12-2-68	Notice to Court Clerk to prepare Record of Appeal filed. h
12-2-68	Notice to Court Reporter to prepare Transcript of Record filed. h
12-20-68	Order extending time to docket appeal to Feb. 19, 1968, filed. (LB-J)g (cpy to counsel and CA)
2-7-69	Transcript of trial and sentencing proceedings, Oct. 28 & 29, and Nov. 21, 1968, filed. g (Frank Sickles, Reporter) (Orig. + 3 copies)
2-18-69	Appeal record forwarded to USCA, Denver. (2 volumes, orig. + 3 copies)g
11-6-69	Application of deft. to reduce bond, filed. h marked to judge
11-17-69	Hearing held on defendant's application to reduce bond. It is ordered by the Court that deft's bond is reduced to \$25,000.00 surety and the Clerk is ordered to refund the \$25,000.00 cash bond to Mr. Kellerman, Sr.; deft. to prepare order. (LB-J)m
11-18-69	Order Approving Reduction of Appeal Bond & Refund of \$25,000 cash Bond, filed (LB-J) js
12-17-70	Application of deft. Kellerman requesting presentencing report to be included in trial record, filed. m
12-17-70	Order granting request for presentencing record to be included in trial record, filed. (LB-J)m
12-17-70	Application, Order and pre-sentencing report forwarded to USCA. g (over)

DATE	PROCEEDINGS
1-28-71	Mandate as to Gary Howard Kellerman, filed and spread of record. Judgment is affirmed as to all counts except Count 7; conviction & sentence on Count 7 are set aside; and case is remanded for further proceedings and dismissal of indictment as to count 7. (O.K. to file - LB-J)m (copies mailed deft. & counsel)
3-10-71	Case called for hearing on deft's motion to review. Deft. not present but represented. Deft's counsel requests Court to direct U.S. Marshal to go to New York to arrest deft. Court orders that Ct. 7 of indictment is dismissed, forfeits bond of \$25,000.00 & orders that bench warrant for arrest of deft. be issued. Hearing on motion to review is passed until after deft. is incarcerated. It is request of Court that atty. gen. provide the deft. with proper medical attention necessary. Govt. to prepare order. (LB-J)m
3-10-71	Bench warrant issued. (LB-J)h
4-1-71	Dismissal, filed and entered, dismissing Count 7 of the Indictment. (LB-J)m (copies mailed)
4-1-71	Order declaring forfeiture of bond, filed, that appearance bond on appeal in amt. of \$25,000.00 is hereby declared a forfeiture; further ordered that U.S. Atty for NDO take immediate measures to enforce collection of same. (LB-J)m (copies mailed)
4-1-71	Govt's motion for judgment on bond forfeiture, filed. m <i>mailed to Judge</i>
4-6-71	Notade, filed, that govt's motion for judgment on bond forfeiture is set for hearing on 4-15-71 at 10:00 a.m. m
4-6-71	Clerk's certificate, filed. m
4-15-71	Case called for hearing on govt's motion for judgment on bond forfeiture. Court enters judgment against United Bonding Ins. Co. and directs U. S. Atty. to collect this judgment; further orders U.S. Atty. to make more diligent effort to find deft. U.S. atty. to prepare order. (LB-J)m
4-26-71	Judgment, filed and entered, that USA have judgment against Gary Howard Kellerman and United Bonding Company of Indianapolis, Indiana, in amt. of \$25,000.00. (LB-J)m (copies mailed U.S. Atty, Kamins & Kellerman)
6-1-71	Order filed that \$110 belonging to Bureau of Narcotics and Dangerous Drugs be returned. (Luther Bohanon-Judge)h
8-23-74	Warrant for Arrest, ret. & filed: deft. Kellerman taken into custody at Dade County Jail on 8-17-74 and delivered to USM, Tulsa, Ok. on same date. g
9-6-74	J&C, ret. & filed: deft. Kellerman delivered to USP, Leavenworth, Ks., on 8-21-74. g
10-8-74	Application to proceed without prepayment of costs with affidavit in support, filed. (for copies of pleadings & transcript) <i>-to LB with order</i>
11-19-74	Ordered by the Court that letter received from deft. requesting certain copies of instruments is treated as a motion in forma pauperis, and the request is denied. (LB-J)hm (letter written deft.)
6-1-76	Order, filed and entered, that petitioner's mo/vacate sentence (76-C-149) is denied as to first 4 points & sustained as to 5th point, and that sentence in 68-CR-111 be corrected to appear as follows: Ct. II - Atty. Gen - Ten Years. Ct. III - Atty. Gen. - Ten years, to run concurrently w/Ct. II. Ct. IV - Atty. Gen. - Ten years, to run concurrently with terms imposed in Cts. II and III. Ct. V - Atty. Gen. - One Year, to run concurrently w/term in Cts. II, III & IV. Ct. VI - Atty. Gen. One Year, to run concurrently w/term in Cts. II, III, IV & V.

(CONTINUED)

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
6-1-76	(Document No.) (continued) Ct. VIII - Atty. Gen. - One year, to run concurrent w/terms imposed in Cts. II, III, IV, V & VI. CT. IX - Atty. Gen. - One Year, to run concurrently w/terms im Cts. II, III, IV, V, VI & VIII. It is the intent of the Ct. that the sentence in this case be corrected to impose a maximum sentence of ten years for all counts. (LB-J)rm-copies mailed				
2-8-77	Appl. of USA to withdraw government's trial exhibits, filed. rm (O to J)				
2-11	Order, filed, that Clerk release all pltf. trial exhibits to U. S. Attorney. (LB-J)rm				

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
	(Document No.)	(a)	(b)	(c)	(d)

UNITED STATES COMMISSIONER

Northern DISTRICT OF Oklahoma

RECORD OF PROCEEDINGS IN CRIMINAL CASES

BEFORE Jack C. Silver

(Name of commissioner)

Tulsa, Oklahoma

(Address)

COMMISSIONER'S
DOCKET No. 1 CASE No. 4
THE UNITED STATES
vs.

John Doe AKA Gary Kessler

Complaint filed on Aug. 8, 19 68, by John C. Blanton
Official title Agent, BNDD, charging violation of
United States Code, Title 26, Section 4742(a) on 7-30-68
19, at Tulsa, Oklahoma in the
division of the Northern district of Oklahoma
as follows: Unlawfully transfer approximately three
pounds of marihuana to Agent John C. Blanton for
200.00 nto in pursuance to a written order of the
said Agent on a form to be issued in blank for
that purpose by the Secretary or his delegate.

(Here insert brief summary of facts constituting offense charged)

WARRANTS OR SUMMONS ISSUED:

Date 8-8-68

Warrant/Summons for John Doe AKA Gary Kessler

(Name of defendant)

to (name and title of officer) To Any U. S. Marshal or Any Authorized Officer:

Substance of return

Date

Warrant/Summons for

to (name and title of officer)

Substance of return

FILED

16, 996
AUG 23 1968

(Name of defendant)

M. M. EWING

Clerk, U. S. District Court

PROCEEDINGS ON FIRST PRESENTATION OF ACCUSED TO COMMISSIONER:

Date

Arrested by

on warrant of

(Name of issuing officer)

without warrant.

Appearances

for United States

(Name)

(Address)

for accused

(Name)

(Address)

Proceedings taken

(Here insert with dates, when appropriate, a serialim account of essential steps taken at hearing such as "complaint prepared,"

If arrest is without warrant: "defendant informed of complaint and right to retain counsel and preliminary hearing": "preliminary examination waived,"

If that is the fact; any adjournments taken, etc.

Handled by Commissioner Benjamin B. Ballenger

Outcome

Bail fixed, 19 Amount, \$ Bonded, 19, by cash
deposited by (name) Address
transmitted to clerk of district court, 19 [or] by surety
(name) Address
(name) Address, who
justified by affidavit dated, 19, [or] committed to
on, 19

SUBPOENAS FOR WITNESSES ISSUED:

_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____
_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____
_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____

PRELIMINARY EXAMINATION:

(Not to be used if case was disposed of at first presentation)

Date_____Appearances for

United States

(Name)

(Address)

Accused

(Name)

(Address)

WITNESSES FOR UNITED STATES:

(List names and addresses)

WITNESSES FOR ACCUSED:

(List names and addresses)

Witness payroll containing_____names certified to United States Marshal for payment_____, 19____
Proceedings taken_____

Outcome_____

Bail fixed_____, 19____ Amount, \$_____ Bonded_____, 19____, by cash
deposited by (name)_____ Address_____
transmitted to clerk of district court_____, 19____
[or] by surety (names)_____ Address_____
and_____ Address_____
who justified by affidavit_____, 19____ Committed to_____
on_____, 19____

Certified to be a correct transcript.

Made this 22 day of August, 1968

Transmitted to Clerk of United States District Court for the
district of Oklahoma, Aug. 22, 1968

James M. Silver

United States Commissioner.

UNITED STATES COMMISSIONER

Northern DISTRICT OF Oklahoma

RECORD OF PROCEEDINGS IN CRIMINAL CASES

BEFORE Ben jamin B. Ballenger 411 U. S. Court House, Tulsa, Oklahoma
(Name of commissioner) (Address)

COMMISSIONER'S
DOCKET NO. 1 CASE NO. 409
THE UNITED STATES
vs.

John Doe aka Gary Kessler
True Name:
Gary Howard Kellerman

Complaint filed on August 8, 1968, by John C. Blanton
Official title Agent, BNDD, charging violation of
United States Code, Title 26, Section 4742(a) on July 30
1968, at Tulsa, Oklahoma in the
division of the Northern district of Oklahoma
as follows: transfer approx. 3 lbs. Marihuana to
Agent John C. Blanton of the BNDD for \$200.00,
not in pursuance to a written order of said agent
on a form to be issued in blank for that purpose
by the Secretary or his delegate

(Here insert brief summary of facts constituting offense charged)

WARRANTS OR SUMMONS ISSUED:

Date August 8th, 1968 Warrant/Summons for John Doe aka Gary Kessler
(Name of defendant)
to (name and title of officer) To U. S. Marshal or Any Authorized U. S. Officer
Substance of return Arrested at Tulsa, Okla. August 9, 1968 by John C. Blanton, Agent BNDD
Date Warrant/Summons for
to (name and title of officer)
Substance of return

PROCEEDINGS ON FIRST PRESENTATION OF ACCUSED TO COMMISSIONER:

Date August 9, 1968 arrested by John C. Blanton, Agt. BNDD
on warrant of Jack C. Silver
U. S. Commissioner (issuing officer)
without warrant.

Appearances { for United States (Name) (Address)
for accused Gerald E. Kamins (appointed) 4th Natl. Bldg., Tulsa, Ok.
(Name) (Address)

Proceedings taken Defendant presented, represented by Gerald E. Kamins, Court
(Here insert with dates, when appropriate, a serial account of essential steps taken at hearing such as "complaint prepared,"

appointed counsel, advised of the charge against him and to a preliminary
if arrest is without warrant: "defendant informed of complaint and right to retain counsel and preliminary hearing": "preliminary examination waived,"

hearing. Preliminary hearing requested and set for August 19, 1968 at 2:00
if that is the fact; any adjournments taken, etc.

P. M. Bond fixed in the amount of \$10,000.00 cash or surety company.

August 14, 1968 Defendant appeared before Honorable Allen E. Barrow, Judge,
for bond hearing, represented by Gerald E. Kamins, government represented by
James E. Richie. Bonds fixed: \$10,000.00 surety; and \$5,000.00 personal to be
signed by father and brother. Defendant waives preliminary hearing, released
on bond pending Court Action. Bond and release order signed.

Outcome

Bail fixed August 14, 1968. Amount, \$ 10,000.00 & 5,000.00 Bonded August 14th, 1968, by cash
deposited by (name) Address
transmitted to clerk of district court, 19 [or] by surety
(name) United Bonding Ins. Co. (Van Ralston) Address 316 W. 6th Tulsa, Okla.
(name) Address, who
justified by affidavit dated, 19, [or] committed to Custody U. S. Marshal
on August 9th, 1968.

SUBPOENAS FOR WITNESSES ISSUED:

_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____
_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____
_____, 19____, for (name of witness)_____
at request of (name of party)_____
Substance of return_____

PRELIMINARY EXAMINATION:

(Not to be used if case was disposed of at first presentation)

Date_____Appearances for

United States

(Name)

(Address)

Accused

(Name)

(Address)

WITNESSES FOR UNITED STATES: (List names and addresses)

WITNESSES FOR ACCUSED: (List names and addresses)

Witness payroll containing_____names certified to United States Marshal for payment_____, 19____
Proceedings taken_____

Outcome_____

Bail fixed_____, 19____ Amount, \$_____ Bonded_____, 19____, by cash
deposited by (name)_____ Address_____
transmitted to clerk of district court_____, 19____
[or] by surety (names)_____ Address_____
and_____ Address_____
who justified by affidavit_____, 19____ Committed to_____
on_____, 19____

Certified to be a correct transcript.

Made this_____day of_____, 19____

Transmitted to Clerk of United States District Court for the _____Northern District of Oklahoma
district of_____August 15th, 19 68

Benjamin B. Ballenger

United States Commissioner.